

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

United States District Court  
Southern District of Texas

Edward Padilla,

Plaintiff,

versus

99 Cent Only Store Texas, Inc.,

Defendant.

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Civil Action H-19-3021

**ENTERED**

March 02, 2021

Nathan Ochsner, Clerk

### Opinion on Summary Judgment

I. *Background.*

On December 17, 2017, Edward Padilla was shopping at a 99 Cent Only Store in North Houston when he slipped on a “liquid substance,” injuring himself.

Padilla sued 99 Cent Only Store Texas, Inc., for premises liability. 99 Cent has moved for summary judgment saying that Padilla has no evidence that 99 Cent had actual or constructive knowledge of the water on the floor. 99 Cent will prevail.

2. *Premises Liability.*

To survive a motion for summary judgment on a premises liability claim, Padilla must show some evidence that 99 Cent had actual or constructive knowledge of the dangerous condition. Constructive knowledge may be shown by the condition existing for long enough or being big enough to have been discovered through reasonable inspection.

Padilla says that he slipped on a puddle of water on the floor. He gives no facts to show the source of the water, how the water got on the floor, how long the water had been the floor, or that 99 Cent was aware that the water was on the floor.

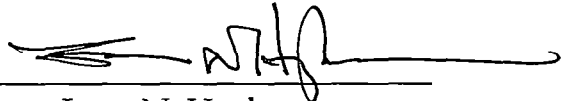
The sole evidence from his wife's, Yoridia Padilla, and his testimony is that 99 Cent's manager told them that the store is cleaned every fifteen minutes. Padilla says that this must be false because they did not clean up the water within fifteen minutes after he slipped. Mere speculation – and likely incorrect speculation – is insufficient to show that 99 Cent knew of the dangerous condition.

No evidence supports an essential element of the claim, so it fails.

3. *Conclusion.*

Because Edward Padilla cannot show that 99 Cent knew of the liquid on the floor – actually or constructively – he will take nothing from 99 Cent Only Store Texas, Inc.

Signed on March 1<sup>st</sup>, 2021, at Houston, Texas.

A handwritten signature in black ink, appearing to read 'L. Hughes', is written over a horizontal line.

Lynn N. Hughes  
United States District Judge